



Reprinted
April 6, 2001

ENGROSSED SENATE BILL No. 436

DIGEST OF SB 436 (Updated April 5, 2001 1:39 PM - DI 94)

Citations Affected: IC 5-14; IC 16-37; IC 16-39; IC 36-2.

Synopsis: Autopsies. Makes a photograph, a video recording, or an audio recording of an autopsy confidential. Excepts a photograph, a video recording, or an audio recording of an autopsy from disclosure as a public record. Specifies who may obtain a photograph, a video recording, or an audio recording of an autopsy. Requires that a court hearing a petition to release a photograph, a video recording, or an audio recording of an autopsy must consider certain factors relating to "good cause". Provides penalties for improper release of a photograph, a video recording, or an audio recording of an autopsy. Provides that the cost of an autopsy requested by a party other than the local health official, the coroner, or the county prosecutor, must be paid by the party requesting the autopsy. Provides that the cost of an autopsy performed on an individual who is a resident of Indiana but not a resident of a county: (1) in which at least one air ambulance provider is located; (2) in which the individual died; and (3) in which the autopsy was performed under the authority of the coroner in the discharge of the coroner's duties, shall be billed by the coroner to the county in which the incident occurred that caused the death of the individual on whom the autopsy was performed.

Effective: July 1, 2001.

Wyss, Breaux

(HOUSE SPONSORS — CRAWFORD, GOEGLEIN, GIAQUINTA, POND)

January 18, 2001, read first time and referred to Committee on Public Policy.
February 15, 2001, amended, reported favorably — Do Pass.
February 20, 2001, read second time, amended, ordered engrossed.
February 21, 2001, engrossed.
February 22, 2001, read third time, passed. Yeas 46, nays 1.

HOUSE ACTION

February 26, 2001, read first time and referred to Committee on Local Government.
March 27, 2001, reported — Do Pass.
April 5, 2001, read second time, amended, ordered engrossed.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

ENGROSSED SENATE BILL No. 436

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-14-3-4, AS AMENDED BY P.L.37-2000,
- 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2001]: Sec. 4. (a) The following public records are excepted
- 4 from section 3 of this chapter and may not be disclosed by a public
- 5 agency, unless access to the records is specifically required by a state
- 6 or federal statute or is ordered by a court under the rules of discovery:
- 7 (1) Those declared confidential by state statute.
- 8 (2) Those declared confidential by rule adopted by a public
- 9 agency under specific authority to classify public records as
- 10 confidential granted to the public agency by statute.
- 11 (3) Those required to be kept confidential by federal law.
- 12 (4) Records containing trade secrets.
- 13 (5) Confidential financial information obtained, upon request,
- 14 from a person. However, this does not include information that is
- 15 filed with or received by a public agency pursuant to state statute.
- 16 (6) Information concerning research, including actual research
- 17 documents, conducted under the auspices of an institution of

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higher education, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of his scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of

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commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or his representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

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(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of his identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public

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agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

- (1) A list of employees of a public agency.
- (2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.
- (3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:
 - (A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or
 - (B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

(d) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(e) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(f) Notwithstanding subsection (e) and section 7 of this chapter:

- (1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or
- (2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 2. IC 16-37-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. **(a) Except as provided in subsection (c), payment for autopsies the cost of an autopsy requested by a party other than the local health official of the county in which the individual died must be made by the party requesting the autopsy.**

(b) Except as provided in subsection (c), payment for the cost of an autopsy required by the local health officer shall be made from funds appropriated to the local health department.



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(c) Except as provided in IC 4-24-4-1, if:

(1) an individual who is a resident of Indiana dies in an Indiana county:

(A) in which at least one (1) air ambulance provider is located; and

(B) of which the individual is not a resident; and

(2) an autopsy is performed on the individual:

(A) in the county in which the individual died; and

(B) under the authority of the county coroner in the discharge of the coroner's duties;

the county coroner shall bill the county in which the incident occurred that caused the death of the individual on whom the autopsy was performed for the cost of the autopsy.

SECTION 3. IC 16-39-7.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 7.1. Autopsy Records

Sec. 1. This chapter applies to a provider (as defined in IC 16-18-2-295).

Sec. 2. Except as provided in section 3 of this chapter, a photograph, a video recording, or an audio recording of an autopsy in the custody of a provider is confidential.

Sec. 3. (a) A surviving spouse may:

(1) view and copy a photograph or video recording; and

(2) listen to and copy an audio recording;

of the deceased spouse's autopsy. If there is no surviving spouse, the surviving parents shall have access to the records under this subsection. If there is no surviving spouse or parent, an adult child shall have access to the records.

(b) Upon making a written request, a unit (as defined in IC 36-1-2-23), the state, an agency of the state, the federal government, or an agency of the federal government, while in performance of their official duty, may:

(1) view and copy a photograph or video recording; and

(2) listen to and copy an audio recording;

of an autopsy. Unless otherwise required in the performance of their duties, the identity of the deceased must remain confidential.

(c) The provider having custody of a photograph, a video recording, or an audio recording of an autopsy may not permit a person to:

(1) view and copy a photograph or video recording; and

(2) listen to and copy an audio recording;



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of an autopsy without a court order.

Sec. 4. (a) A court, upon a showing of good cause, may issue an order authorizing a person to:

(1) view or copy a photograph or video recording; and

(2) listen to or copy an audio recording;

of an autopsy, and may prescribe any restrictions or stipulations that the court considers appropriate.

(b) In determining good cause, the court shall consider:

(1) whether the disclosure is necessary for the public evaluation of governmental performance;

(2) the seriousness of the intrusion into the family's right to privacy;

(3) whether the disclosure of the photograph, video recording, or audio recording is by the least intrusive means available; and

(4) the availability of similar information in other public records, regardless of form.

(c) In all cases, the viewing, copying, listening to, or other handling of a photograph or video or audio recording of an autopsy must be under the direct supervision of the provider who is the custodian of the record.

Sec. 5. (a) A surviving spouse shall be given:

(1) reasonable notice of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording;

(2) a copy of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording; and

(3) reasonable notice of the opportunity to be present and heard at any hearing on the matter.

(b) If there is no surviving spouse, the notice under this section must be given to the deceased's parents, and if the deceased has no living parent, the notice must be given to the adult children of the deceased.

Sec. 6. (a) A provider who:

(1) is the custodian of a photograph, a video recording, or an audio recording of an autopsy; and

(2) knowingly or intentionally violates this section; commits a Class D felony.

(b) A person who knowingly or intentionally violates a court order issued under this section commits a Class D felony.

SECTION 4. IC 36-2-14-10 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) After viewing the body, hearing the evidence, and making all necessary inquiries, the coroner shall draw up and sign his verdict on the death under consideration. The coroner shall also make a written report giving an accurate description of the deceased person, his name if it can be determined, and the amount of money and other property found with the body. The verdict and the written report are subject to inspection and copying under IC 5-14-3-3.

(b) Except as provided in subsections (c) and (d), a photograph, video recording, or audio recording of an autopsy in the custody of a medical examiner is declared confidential for purposes of IC 5-14-3-4(a)(1).

(c) A surviving spouse may:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of the deceased spouse's autopsy. If there is no surviving spouse, the surviving parents shall have access to the records under this section. If there is no surviving spouse or parent, an adult child shall have access to the records.

(d) Upon making a written request, a unit (as defined in IC 36-1-2-23), the state, an agency of the state, the federal government, or an agency of the federal government, while in performance of their official duty, may:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of an autopsy. Unless otherwise required in the performance of their duties, the identity of the deceased must remain confidential.

(e) The coroner or the coroner's designee having custody of a photograph, a video, or an audio recording of an autopsy may not permit a person to:

- (1) view or copy the photograph or video recording; and
- (2) listen to or copy the audio recording;

of an autopsy without a court order.

(f) A court, upon a showing of good cause, may issue an order authorizing a person to:

- (1) view or copy a photograph or video recording; and
- (2) listen to or copy an audio recording;

of an autopsy, and may prescribe any restrictions or stipulations that the court considers appropriate.

(g) In determining good cause under subsection (f), the court shall consider:

- (1) whether the disclosure is necessary for the public

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- evaluation of governmental performance;
- (2) the seriousness of the intrusion into the family's right to privacy;
- (3) whether the disclosure of the photograph, video recording, or audio recording is by the least intrusive means available; and
- (4) the availability of similar information in other public records, regardless of form.

(h) In all cases, the viewing, copying, listening to, or other handling of a photograph, video recording, or audio recording of an autopsy must be under the direct supervision of the coroner, or the coroner's designee, who is the custodian of the record.

(i) A surviving spouse shall be given:

- (1) reasonable notice of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording;
- (2) a copy of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording; and
- (3) reasonable notice of the opportunity to be present and heard at any hearing on the matter.

(j) If there is no surviving spouse, the notice under subsection (i) must be given to the deceased's parents, and if the deceased has no living parent, the notice must be given to the adult children of the deceased.

(k) A coroner or coroner's designee who:

- (1) is the custodian of a photograph, a video recording, or an audio recording of an autopsy; and
- (2) knowingly or intentionally violates this section;

commits a Class D felony.

(l) A person who knowingly or intentionally violates a court order issued under this section commits a Class D felony.

SECTION 5. IC 36-2-14-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 18. (a) Notwithstanding IC 5-14-3-4(b)(1), when a coroner investigates a death, the office of the coroner is required to make available for public inspection and copying the following:

- (1) The name, age, address, sex, and race of the deceased.
- (2) The address where the dead body was found, or if there is no address the location where the dead body was found and, if different, the address where the death occurred, or if there is no address the location where the death occurred.



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(3) The name of the agency to which the death was reported and the name of the person reporting the death.

(4) The name of any public official or governmental employee present at the scene of the death and the name of the person certifying or pronouncing the death.

(5) Information regarding an autopsy (requested or performed) limited to the date, the person who performed the autopsy, where the autopsy was performed, and a conclusion as to:

(A) the probable cause of death;

(B) the probable manner of death; and

(C) the probable mechanism of death.

(6) The location to which the body was removed, the person determining the location to which the body was removed, and the authority under which the decision to remove the body was made.

(7) The records required to be filed by a coroner under section 6 of this chapter and the verdict and the written report required under section 10 of this chapter.

(b) A county coroner or a coroner's deputy who receives an investigatory record from a law enforcement agency shall treat the investigatory record with the same confidentiality as the law enforcement agency would treat the investigatory record.

(c) Notwithstanding any other provision of this section, a coroner shall make available a full copy of an autopsy report, **other than a photograph, video recording, or audio recording of the autopsy**, upon the written request of the next of kin of the decedent or of an insurance company investigating a claim arising from the death of the individual upon whom the autopsy was performed. The insurance company is prohibited from publicly disclosing any information contained in the report beyond that information that may otherwise be disclosed by a coroner under this section. This prohibition does not apply to information disclosed in communications in conjunction with the investigation, settlement, or payment of the claim.

SECTION 6. IC 36-2-14-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 20. (a) Except as provided in subsection (b) and IC 4-24-4-1, if:**

(1) an individual who is a resident of Indiana dies in an Indiana county:

(A) in which at least one (1) air ambulance provider is located; and

(B) of which the individual is not a resident; and

(2) an autopsy is performed on the individual:



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1 (A) in the county in which the individual died; and
2 (B) under the authority of the county coroner in the
3 discharge of the coroner's duties;
4 the county coroner shall bill the county in which the incident
5 occurred that caused the death of the individual on whom the
6 autopsy was performed for the cost of the autopsy, including the
7 physician fee under section 6(d) of this chapter.
8 (b) Except as provided in subsection (a) and IC 4-24-4-1,
9 payment for the costs of an autopsy requested by a party other
10 than the:
11 (1) county prosecutor; or
12 (2) county coroner;
13 of the county in which the individual died must be made by the
14 party requesting the autopsy.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Public Policy, to which was referred Senate Bill No. 436, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 16, delete "pay" and insert **"reimburse the county coroner for"**.

Page 1, line 17, after "." insert **"A person who performs an autopsy on an individual to whom this subsection applies may not charge the county coroner an amount greater than the amount specified in a contract between the county coroner and the person for performing an autopsy on an individual to whom this subsection does not apply."**

Page 2, line 13, delete "pay" and insert **"reimburse the county coroner for"**.

Page 2, line 14, after "." insert **"A person who performs an autopsy on an individual to whom this section applies may not charge the county coroner an amount greater than the amount specified in a contract between the county coroner and the person for performing an autopsy on an individual to whom this section does not apply."**

and when so amended that said bill do pass.

(Reference is to SB 436 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 9, Nays 2.

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SENATE MOTION

Mr. President: I move that Senate Bill 436 be amended to read as follows:

Page 1, line 16, delete "the state shall reimburse".

Page 1, line 16, after "coroner" insert "**shall bill the county in which the incident occurred that caused the death of the individual on whom the autopsy was performed**".

Page 1, line 17, delete "from the state general fund. A person who performs an" and insert ".".

Page 2, delete lines 1 through 5.

Page 2, line 18, delete "the state shall reimburse".

Page 2, line 18, after "coroner" insert "**shall bill the county in which the incident occurred that caused the death of the individual on whom the autopsy was performed**".

Page 2, delete lines 20 through 25 and insert "**chapter**".

(Reference is to SB 436 as printed February 16, 2001.)

JOHNSON

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Senate Bill 436, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STEVENSON, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Senate Bill 436 be amended to read as follows:

Page 1, line 3, delete "(b)" and insert "(c)".

Page 1, line 3, strike "autopsies" and insert **"the cost of an autopsy requested by a party other than the local health official of the county in which the individual died must be made by the party requesting the autopsy."**

(b) Except as provided in subsection (c), payment for the cost of an autopsy".

Page 1, line 6, delete "(b)" and insert "(c)".

Page 2, line 4, after "20." insert "(a)".

Page 2, line 4, after "in" insert **"subsection (b) and"**.

Page 2, after line 17, begin a new paragraph and insert:

"(b) Except as provided in subsection (a) and IC 4-24-4-1, payment for the costs of an autopsy requested by a party other than the:

(1) county prosecutor; or

(2) county coroner;

of the county in which the individual died must be made by the party requesting the autopsy."

(Reference is to SB 436 as printed March 28, 2001.)

STEVENSON

HOUSE MOTION

Mr. Speaker: I move that Senate Bill 436 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-14-3-4, AS AMENDED BY P.L.37-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as

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confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of his scores.

(5) The following:

(A) Records relating to negotiations between the department

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of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or his representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request

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being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of his identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations

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that concern the driver.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

- (1) A list of employees of a public agency.
- (2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.
- (3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:
 - (A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or
 - (B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

(d) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(e) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(f) Notwithstanding subsection (e) and section 7 of this chapter:

- (1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or
- (2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business."

Page 2, between lines 1 and 2, begin a new paragraph and insert:

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"SECTION 3. IC 16-39-7.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 7.1. Autopsy Records

Sec. 1. This chapter applies to a provider (as defined in IC 16-18-2-295).

Sec. 2. Except as provided in section 3 of this chapter, a photograph, a video recording, or an audio recording of an autopsy in the custody of a provider is confidential.

Sec. 3. (a) A surviving spouse may:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of the deceased spouse's autopsy. If there is no surviving spouse, the surviving parents shall have access to the records under this subsection. If there is no surviving spouse or parent, an adult child shall have access to the records.

(b) Upon making a written request, a unit (as defined in IC 36-1-2-23), the state, an agency of the state, the federal government, or an agency of the federal government, while in performance of their official duty, may:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of an autopsy. Unless otherwise required in the performance of their duties, the identity of the deceased must remain confidential.

(c) The provider having custody of a photograph, a video recording, or an audio recording of an autopsy may not permit a person to:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of an autopsy without a court order.

Sec. 4. (a) A court, upon a showing of good cause, may issue an order authorizing a person to:

- (1) view or copy a photograph or video recording; and
- (2) listen to or copy an audio recording;

of an autopsy, and may prescribe any restrictions or stipulations that the court considers appropriate.

(b) In determining good cause, the court shall consider:

- (1) whether the disclosure is necessary for the public evaluation of governmental performance;
- (2) the seriousness of the intrusion into the family's right to privacy;
- (3) whether the disclosure of the photograph, video recording,

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or audio recording is by the least intrusive means available;
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(4) the availability of similar information in other public records, regardless of form.

(c) In all cases, the viewing, copying, listening to, or other handling of a photograph or video or audio recording of an autopsy must be under the direct supervision of the provider who is the custodian of the record.

Sec. 5. (a) A surviving spouse shall be given:

(1) reasonable notice of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording;

(2) a copy of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording; and

(3) reasonable notice of the opportunity to be present and heard at any hearing on the matter.

(b) If there is no surviving spouse, the notice under this section must be given to the deceased's parents, and if the deceased has no living parent, the notice must be given to the adult children of the deceased.

Sec. 6. (a) A provider who:

(1) is the custodian of a photograph, a video recording, or an audio recording of an autopsy; and

(2) knowingly or intentionally violates this section;

commits a Class D felony.

(b) A person who knowingly or intentionally violates a court order issued under this section commits a Class D felony.

SECTION 4. IC 36-2-14-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) After viewing the body, hearing the evidence, and making all necessary inquiries, the coroner shall draw up and sign his verdict on the death under consideration. The coroner shall also make a written report giving an accurate description of the deceased person, his name if it can be determined, and the amount of money and other property found with the body. The verdict and the written report are subject to inspection and copying under IC 5-14-3-3.

(b) Except as provided in subsections (c) and (d), a photograph, video recording, or audio recording of an autopsy in the custody of a medical examiner is declared confidential for purposes of IC 5-14-3-4(a)(1).

(c) A surviving spouse may:

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(1) view and copy a photograph or video recording; and
 (2) listen to and copy an audio recording;
 of the deceased spouse's autopsy. If there is no surviving spouse, the surviving parents shall have access to the records under this section. If there is no surviving spouse or parent, an adult child shall have access to the records.

(d) Upon making a written request, a unit (as defined in IC 36-1-2-23), the state, an agency of the state, the federal government, or an agency of the federal government, while in performance of their official duty, may:

(1) view and copy a photograph or video recording; and
 (2) listen to and copy an audio recording;
 of an autopsy. Unless otherwise required in the performance of their duties, the identity of the deceased must remain confidential.

(e) The coroner or the coroner's designee having custody of a photograph, a video, or an audio recording of an autopsy may not permit a person to:

(1) view or copy the photograph or video recording; and
 (2) listen to or copy the audio recording;
 of an autopsy without a court order.

(f) A court, upon a showing of good cause, may issue an order authorizing a person to:

(1) view or copy a photograph or video recording; and
 (2) listen to or copy an audio recording;
 of an autopsy, and may prescribe any restrictions or stipulations that the court considers appropriate.

(g) In determining good cause under subsection (f), the court shall consider:

- (1) whether the disclosure is necessary for the public evaluation of governmental performance;
- (2) the seriousness of the intrusion into the family's right to privacy;
- (3) whether the disclosure of the photograph, video recording, or audio recording is by the least intrusive means available; and
- (4) the availability of similar information in other public records, regardless of form.

(h) In all cases, the viewing, copying, listening to, or other handling of a photograph, video recording, or audio recording of an autopsy must be under the direct supervision of the coroner, or the coroner's designee, who is the custodian of the record.

(i) A surviving spouse shall be given:

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- (1) reasonable notice of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording;**
- (2) a copy of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording; and**
- (3) reasonable notice of the opportunity to be present and heard at any hearing on the matter.**

(j) If there is no surviving spouse, the notice under subsection (i) must be given to the deceased's parents, and if the deceased has no living parent, the notice must be given to the adult children of the deceased.

(k) A coroner or coroner's designee who:

- (1) is the custodian of a photograph, a video recording, or an audio recording of an autopsy; and**
- (2) knowingly or intentionally violates this section;**

commits a Class D felony.

(l) A person who knowingly or intentionally violates a court order issued under this section commits a Class D felony.

SECTION 5. IC 36-2-14-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 18. (a) Notwithstanding IC 5-14-3-4(b)(1), when a coroner investigates a death, the office of the coroner is required to make available for public inspection and copying the following:

- (1) The name, age, address, sex, and race of the deceased.
- (2) The address where the dead body was found, or if there is no address the location where the dead body was found and, if different, the address where the death occurred, or if there is no address the location where the death occurred.
- (3) The name of the agency to which the death was reported and the name of the person reporting the death.
- (4) The name of any public official or governmental employee present at the scene of the death and the name of the person certifying or pronouncing the death.
- (5) Information regarding an autopsy (requested or performed) limited to the date, the person who performed the autopsy, where the autopsy was performed, and a conclusion as to:
 - (A) the probable cause of death;
 - (B) the probable manner of death; and
 - (C) the probable mechanism of death.
- (6) The location to which the body was removed, the person determining the location to which the body was removed, and the

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authority under which the decision to remove the body was made.

(7) The records required to be filed by a coroner under section 6 of this chapter and the verdict and the written report required under section 10 of this chapter.

(b) A county coroner or a coroner's deputy who receives an investigatory record from a law enforcement agency shall treat the investigatory record with the same confidentiality as the law enforcement agency would treat the investigatory record.

(c) Notwithstanding any other provision of this section, a coroner shall make available a full copy of an autopsy report, **other than a photograph, video recording, or audio recording of the autopsy**, upon the written request of the next of kin of the decedent or of an insurance company investigating a claim arising from the death of the individual upon whom the autopsy was performed. The insurance company is prohibited from publicly disclosing any information contained in the report beyond that information that may otherwise be disclosed by a coroner under this section. This prohibition does not apply to information disclosed in communications in conjunction with the investigation, settlement, or payment of the claim."

Renumber all SECTIONS consecutively.

(Reference is to SB 436 as printed March 28, 2001.)

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